

REMARKS

Claims 1-32 are currently pending in the application. Claims 1-21, 23, 25, 27, and 29 have been amended. Applicant respectfully submits that no new matter has been added. Applicant respectfully requests reconsideration of the application in view of the foregoing amendments and the following remarks.

Claims 1-4, 10-11, and 13-19 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application 2002/0120763 to Miloushev et al. ("Miloushev"). Amended independent claim 1 relates to a system configured to function as a layer 4 switch. Applicant respectfully submits that Miloushev fails to disclose at least one of the distinguishing features of amended claim 1, namely, a first server and a second server adapted to share a virtual IP address and a virtual MAC address, the shared virtual MAC address being different from a real MAC address of the first server and different from a real MAC address of the second server. In addition, Applicant respectfully submits that the cited reference fails to disclose that the first server and the second server are configured to provide the shared virtual MAC address responsive to an ARP request for the shared virtual IP address.

Miloushev discloses an apparatus and method to decouple a client from a server by placing a transparent network node, also termed a file switch or file switch computer, between the client and the server. In characterizing Miloushev, the Office Action states:

The plurality of servers being configured to operate collectively with the layer 2 switch so that the switch operates as a layer 4 switch (see paragraphs 123 and 124, the file switch supports TCP and UDP IP network protocols; therefore, the file servers is capable of communicating with the file switch as a layer 4 switch).

Independent claim 1 has been amended to more clearly define the invention. Applicant respectfully submits that neither paragraphs 123-124 of Miloushev, nor any other portion thereof, in any way discloses the above-described features of claim 1 that the first server and the second server are configured to provide a shared virtual MAC address responsive to an ARP request for a shared virtual IP address as claimed. Applicant respectfully submits that independent claim 1

distinguishes over Miloushev for at least the reasons set forth above. Withdrawal of the rejection of independent claim 1 is respectfully requested.

Dependent claims 2-4, 10-11, and 13-19 depend from and further restrict independent claim 1 in a patentable sense. Applicant respectfully submits that, for at least the reasons set forth above with respect to the rejection of independent claim 1, dependent claims 2-4, 10-11, and 13-19 also distinguish over Miloushev. Withdrawal of the rejection of dependent claims 2-4, 10-11, and 13-19 is respectfully requested.

Claims 5-9, 12, and 20-32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Miloushev in view of U.S. Patent Application 2002/0138628 to Tingley ("Tingley"). Independent claim 20 relates to a method of creating a layer 4 switch. Applicant respectfully submits that the combination of Miloushev and Tingley fails to disclose at least one of the distinguishing features of claim 20, namely, configuring a plurality of servers to each have a real IP address and a real MAC address, wherein the real IP address and the real MAC address of each of the plurality of servers is different from one another, configuring the plurality of servers to each have a shared virtual IP address, the shared virtual IP address being different from the real IP addresses of the plurality of servers, and configuring the plurality of servers to each have a shared virtual MAC address for the virtual IP address, the shared virtual MAC address being different from the real MAC addresses of the plurality of servers. In addition, the combination of Miloushev and Tingley fails to disclose configuring the plurality of servers to provide the shared virtual MAC address responsive to an ARP request for the virtual IP address.

The Office Action concedes that Miloushev fails to disclose a method of configuring a plurality of servers to each have a same virtual MAC address for a virtual IP address. Tingley has been cited as teaching this feature. Applicant respectfully disagrees for at least the reasons set forth below.

Tingley relates generally to a system and method for extending an address resolution protocol (ARP) for use in Internet Protocol (IP) virtual networks. Tingley discloses the use of standard behavior of ARP requests. According to Tingley, an ARP request returns two different

physical MAC addresses. The two different physical MAC address as disclosed by Tingley are *real* MAC address and *not* a shared virtual MAC address as claimed in claim 20. Additionally, Tingley fails to disclose configuring a plurality of servers to provide a shared virtual MAC address responsive to an ARP request for a virtual IP address.

In contrast to claim 20, Tingley provides a real MAC address responsive to an ARP request. The addition of Tingley does not overcome the deficiencies in Miloushev addressed above. Applicant respectfully submits that independent claim 20 distinguishes over the combination of Miloushev and Tingley. Withdrawal of the rejection of independent claim 20 is respectfully requested.

Dependent claims 5-9 and 12 depend from and further restrict independent claim 1 in a patentable sense. Dependent claims 20-28 depend from and further restrict independent claim 20 in a patentable sense. Applicant respectfully submits that, for at least the reasons set forth above with respect to the rejection of independent claims 1 and 20, respectively, dependent claims 5-9, 12, and 20-28 also distinguish over the combination of Miloushev and Tingley. Withdrawal of the rejection of dependent claims 5-9, 12, and 20-28 is respectfully requested.

Independent claim 29 relates to a switch. Applicant respectfully submits that the combination of Miloushev and Tingley fails to disclose at least one of the distinguishing features of claim 29, namely, a plurality of servers, each server configured to have a shared virtual IP address that is the same and a configurable shared virtual MAC address for the virtual IP address and a layer 2 switch having a plurality of ports, one of the plurality of ports being for communicating with a client. In addition, the combination of Miloushev and Tingley fails to disclose that the plurality of servers are configured to provide the shared virtual MAC address responsive to an ARP request for the shared virtual IP address and responsive to receiving the shared virtual MAC address by the layer 2 switch, the layer 2 switch fails to associate an actual MAC address of the plurality of servers with at least one port of the plurality of ports causing the layer 2 switch to broadcast data destined for the virtual IP address to each server of the plurality of servers. For similar as stated above with respect to independent claims 1 and 20, Applicant

respectfully submits that independent claim 29 distinguishes over the combination of Miloushev and Tingley. Withdrawal of the rejection of claim 29 is respectfully requested.

Dependent claims 30-32 depend from and further restrict independent claim 29 in a patentable sense. Applicant respectfully submits that, for at least the reasons set forth above with respect to the rejection of independent claim 29, dependent claims 30-32 also distinguish over the combination of Miloushev and Tingley. Withdrawal of the rejection of dependent 30-32 is respectfully requested.

In view of the above amendment, Applicant respectfully submits that the present application is in condition for allowance. A Notice to that effect is respectfully requested.

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Respectfully submitted,

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